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By Hand Delivery

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

**Re: Year 2000 Biennial Regulatory Review
Amendment of Part 22 of the Commission's Rules
WT Docket No. 01-108
Ex Parte Communication**

Dear Ms. Dortch:

Pursuant to Section 1.1206(b) of the Commission's rules, I am writing on behalf of American Honda Motor Co., Inc., ATX Technologies, Inc., Audi of America, Deere & Company, General Motors Corporation, Mercedes-Benz USA, LLC, OnStar Corporation, Rural Cellular Association, Sprint, Toyota Motor North America, Inc. and Volkswagen of America, companies that provide important services using Advanced Mobile Phone Service ("AMPS"), to inform you of meetings held with Commission staff on December 9, 2003, regarding issues raised in the above-referenced proceeding.

The meetings were held to discuss the need for the Commission to reject a petition for reconsideration of its biennial review decision ^{1/} to provide for a five-year sunset of the analog cellular requirement contained in 47 C.F.R. §§ 22.901(d) and 22.933. Attached to this letter is a summary of the presentation made by the companies listed above.

^{1/} Year 2000 Biennial Regulatory Review – Amendment of Part 22 of the Commission's Rules to Modify or Eliminate Outdated Rules Affecting the Cellular Radiotelephone Service and other Commercial Mobile Radio Services, *Report and Order*, 17 FCC Rcd 18401 (2002).

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Those participating in the meetings on behalf of the companies include Bill Ball, OnStar; Cloyce Newton, John Deere; Patrick Calpin, American Honda Motor Co., Inc.; Bill Carnell, Latham & Watkins and Counsel to Toyota Motor North America, Inc.; John Logan, Counsel to ATX Technologies, Inc.; Christopher Leahy, Volkswagen of America, Inc.; David Nace, Lukas, Nace, Gutierrez & Sachs, Counsel to the Rural Cellular Association; Roger Sherman, Sprint; Sascha Simon, Geoffrey Smith and Douglas Landaeta, Mercedes-Benz USA, LLC; and David Martin and the undersigned, Counsel to Mercedes-Benz USA, LLC.

Commission staff who participated in the meetings include Sheryl Wilkerson, Legal Advisor to Chairman Powell; Jennifer Manner, Senior Counsel to Commissioner Abernathy; Paul Margie, Legal Advisor to Commissioner Copps; Sam Feder, Legal Advisor to Commissioner Martin; Barry Ohlson, Legal Advisor to Commissioner Adelstein; and Linda Chang and Shellie Blakeney of the Commission's Wireless Bureau.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Ari Q. Fitzgerald', with a stylized, overlapping loop at the end.

Ari Q. Fitzgerald

Enclosure

cc (w/enc.): Sheryl Wilkerson
Jennifer Manner
Paul Margie
Sam Feder
Barry Ohlson
Linda Chang
Shellie Blakeney

Year 2000 Biennial Review – Elimination of AMPS Rule

(WT Docket No. 01-108)

Ex Parte Presentation of the Digital Transition Coalition

American Honda Motor Company
ATX Technologies
Audi of America
Deere & Company
General Motors Corporation
Mercedes-Benz
OnStar Corporation
Rural Cellular Association
Sprint
Toyota Motor North America, Inc.
Volkswagen of America

December 9, 2003

The Digital Transition Coalition

- ◆ The DTC is composed of a diverse group of companies that utilize Advanced Mobile Phone Service (“AMPS”) to provide important services to the public or for operational purposes.
- ◆ DTC Members share the common goal of ensuring a rational and orderly transition to digital technology.
- ◆ DTC Members agree that any transition period of less than five years would create significant problems by disrupting the nationwide ubiquitous network, which would jeopardize reliable wireless service to the general public in rural areas and elsewhere, and in particular would jeopardize public safety on the nation’s roadways.
 - **Accordingly, the DTC urges the Commission on reconsideration to re-affirm the decision in its September 2002 *Order* to establish a five year sunset period for the AMPS rule.**
 - **Moreover, on reconsideration the Commission should augment the basis for its decision, making it clear that the transition period is required not just to protect the interests of the hard of hearing and 911-only users, but also to protect the interests of telematics subscribers, roamers and other cellular subscribers still dependent on analog service.**

AMPS Continues to be the Glue that Holds Wireless Networks Together

- ◆ Congress has found that the “operation of seamless, ubiquitous, and reliable wireless telecommunications systems promote public safety and provide immediate and critical communications links among members of the public.” Wireless Communications & Public Safety Act of 1999, Pub. L. No. 106-81, § 2(a)(6).
- ◆ A significant base of legacy AMPS subscribers exists today. 17 million mobile telephony subscribers continue to rely exclusively on AMPS service. (8th CMRS Report at ¶61 (July 14, 2003)) Moreover, all wireless subscribers that depend upon nationally ubiquitous service rely on AMPS.
- ◆ AMPS remains the predominant interface for roaming and telematics, both because of its ubiquitous coverage and because of incompatible 2G interfaces:

U.S. Geographic Coverage (8th CMRS Report, App. D, Table 7)

AMPS	95%*	iDEN	36%
TDMA/GSM	54%	CDMA	51%

* Although not listed in the 8th CMRS Report, DTC estimates AMPS geographic coverage to be over 95% (excluding Alaska).

Notably, none of the digital interfaces increased their geographic coverage by more than 2 percentage points over the prior year. Moreover, the data compilation methodology used actually overstates digital geographic coverage. (see 8th CMRS Report at ¶ 82).

AMPS Is Necessary to Protect Public Safety and Consumers

- ◆ As the FCC recognized in its August 2003 *Order* in the Hearing Aid Compatibility (“HAC”) proceeding (Docket No. 01-309), the deaf and hard of hearing remain largely dependent on AMPS. Indeed, the FCC based a major milestone in the *Order* on the February 2008 AMPS sunset date. (¶54) The FCC’s compliance schedule acknowledges that there will be a significant delay in digital hearing aid compatibility, making it necessary to maintain the analog cellular requirement for a significant period of time.
- ◆ Without AMPS, consumers would be unable to make emergency 911 calls in areas where their particular handset is not supported.
- ◆ Owners of vehicles with telematics-based automatic collision notification and in-vehicle “MayDay” emergency systems rely on AMPS for location-based emergency response.
 - It is through the use of AMPS that telematics systems can, as the Commission recognized in its recent *E911 Scope Order*, “deliver nationwide precise GPS-based location information with every emergency call, regardless of whether the PSAP is Phase II ready.” (FCC 03-290 (rel. Dec. 1, 2003) at ¶ 72).

The Record Demonstrates Broad Consensus In Favor of Gradual Phase-Out of the AMPS Requirement

- ◆ The overwhelming majority of participants in the proceeding favor a gradual transition period before the AMPS rule is eliminated:

<u>Wireless Industry</u>	<u>Public Interest</u>	<u>Telematics/Business Users</u>
CenturyTel Wireless	AARP	ATX Technologies
CTIA	AG Bell Ass'n for the Deaf	Audi of America
Independent Cellular Ass'n	Council of Organization Representatives	CaseNewHolland
Mid-Missouri Cellular	League for the Hard of Hearing	Deere & Company
Numerous small cellular carriers	MCSAFE (and others)	EDS Corp.
Qwest Wireless	National Ass'n of the Deaf	Honda Motor Company
Rural Cellular Ass'n	National Organization on Disability	Mercedes-Benz
Rural Telecom Group	Numerous individual consumers	OnStar Corporation
Sprint	Self Help for Hard of Hearing	Toyota Motor North America, Inc.
U.S. Cellular	Telecom. for the Deaf	Volkswagen of America
Verizon Wireless	Wireless Consumers Alliance	

- ◆ The Bush Administration stated that “a reasonable transition period would be five years.” NTIA *Ex Parte* at 5 (July 12, 2002).
- ◆ Numerous Senate Commerce Committee members also urge “gradual phase out of the [AMPS] requirement rather than an immediate elimination or rapid phase out.” Senate Commerce Committee Letter (May 22, 2002).

A Transition Period of At Least Five Years Is Needed

◆ Consumers need a transition period.

- It will take time before the public learns of and understands the sunset date; and for mobile telephony and telematics users to learn that digital location-based safety is not as ubiquitous as with AMPS networks.
- Customers dependent upon AMPS need time to find suitable alternatives and to adjust to the new environment.
- Customers should not be required to discard AMPS equipment prematurely.
- By the end of 2006, 6-7 million vehicles, with an average life span of 8 years, will have embedded AMPS equipment.

◆ Hard of hearing consumers need at least a five year transition.

- Digital solutions are gradually being implemented, but based on the milestone dates established in the *HAC Order*, the availability of hearing aid compatible digital handsets will likely remain very limited until February 2008, the date of the five year AMPS sunset. (See FCC 03-168).

A Transition Period of At Least Five Years Is Needed (cont'd)

- ◆ Owners of vehicles with embedded analog telematics systems should be allowed a reasonable period to benefit from the telematics service offered by the systems in which they have invested.
 - Although OEMs will start phasing in digital telematics units over the next several years, telematics providers and users need a transition that will accommodate vehicle production cycles and the life cycle of units already in operation.
- ◆ CMRS roaming is currently dependent upon AMPS. Given the importance of roaming as a “safety-net” for mobile users, the AMPS rule should not be sunset in any period less than five years.
 - A five year transition period ensures that customers relying on analog cellular service will continue to have access to ubiquitous service as they transition to a digital environment.
 - A five year transition period balances customer needs and carrier plans to move to more efficient and robust technologies.

The AT&T Wireless Petition for Reconsideration Should Be Denied

- ◆ Contrary to the arguments in the AT&T Petition, the D. C. Circuit's decision in *Fox Television Stations, Inc. v. Federal Communications Commission*, 280 F.2d 1027 (D.C. Cir. 2002), establishes that in conducting a biennial review the Commission may examine factors (such as service to the deaf and hard-of-hearing, emergency-only callers, roamers and telematics subscribers) in addition to the original purpose of a rule.
- ◆ The Commission's determination that the analog cellular requirement must be maintained for at least 5 more years in order to ensure an adequate level of wireless service to the hearing impaired is consistent with and furthers the Commission's original purpose for promulgating its analog cellular rule – *i.e.*, ensuring “nation-wide compatibility and a level of quality comparable to the landline network.” (*see Inquiry Into the Use of the Bands 825-845 MHz and 870-890 MHz for Cellular Communications Systems, Notice of Inquiry and Notice of Proposed Rulemaking*, 78 FCC 2d 974 ¶ 54 (1980)).

The FCC should re-affirm its decision to provide a five year transition period which will allow for an orderly AMPS migration and customer education efforts.

This transition period is necessary not only for the hard of hearing community and 911-only users, but also for telematics users, roamers, and other cellular subscribers that currently remain dependent on analog service.